



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

Naomi Millisor, Treasurer
Nevada State Democratic Party
1785 East Sahara #496
Las Vegas, NV 89104

SEP 15 1999

Identification Number: C00208991

Reference: Amended 12 Day Pre-General Report (10/1/98-10/14/98), dated 7/29/99

Dear Ms. Millisor:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Your report discloses in-kind contributions ("donations") from corporations on Schedule H4, supporting Line 21(a) of the Detailed Summary Page (pertinent portions attached). Pursuant to Advisory Opinion 1992-33, the Commission concluded that a "national party committee may accept corporate in-kind donations in connection with fundraising activities" as long as "the federal share of goods or services is paid or transferred to the non-federal account in advance" of the acceptance of the corporate in-kind donations by the federal account.

Advisory Opinion 1992-33 also discloses a detailed method for reporting the receipt and use of in-kind contributions as follows:

1. The transfer of the in-kind corporate contribution from the non-federal account to the federal account should be disclosed on Schedule H3. The itemization on Schedule H3 should include the date the Committee received the in-kind contribution, the amount of the contribution and the fundraising event involved.

2. The use or expenditure of in-kind corporate contributions should be disclosed on Schedule H4 as non-federal share disbursements. The

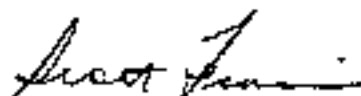
itemization should provide the same donor identification information required on a Schedule A for in-kind contributions for Federal elections.

3. A second entry on Schedule H4 should then disclose the advance or contemporaneous payment of the federal account's share of the in-kind corporate contribution to the non-federal account.

Please amend your report to properly disclose the in-kind corporate contributions received by your committee (example enclosed).

A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 694-1130.

Sincerely,



Scott A. Francis
Reports Analyst
Reports Analysis Division

11. Prohibited In-Kind Donations for Allocable Activities

While contributions from corporations, labor organizations and federal government contractors are prohibited under federal law, they are permissible under some state laws. If that is the case, such donations may be accepted by a nonfederal account for strictly nonfederal activity. However, the situation is more complicated when donations of goods or services from such sources are made in connection with allocable activity, such as a fundraiser at which both federal and nonfederal funds are collected.

In AO 1992-33, the Commission explained how a committee can legally accept an in-kind donation from a prohibited source in connection with an allocable administrative or fundraising activity. Note that the Commission has not addressed the receipt of in-kind donations from prohibited sources for the other types of allocable expenses (i.e., generic voter drives and candidate support activity).

Advance Payment of Federal Share

To avoid the receipt of a prohibited contribution by the federal account, that account must pay the nonfederal account for the federal share of the in-kind donation. This payment—a transfer to the nonfederal account—must be made in advance or on the date the goods or services are received.

Per-Transaction Transfers

The federal transfer may be made on a per-transaction basis—that is, shortly before or on the same day the in-kind donation is received.

Escrow Transfers

Alternatively, the federal account may make bulk transfers to cover the federal share of anticipated in-kind donations. Under this "escrow" arrangement, a committee makes a good faith estimate of the amount of in-kind donations that it expects to receive and transfers sufficient funds from the federal account to cover the federal share.

Adjustments

Should the federal account pay more than its share of an in-kind donation, adjustment transfers from the nonfederal account are permissible.

Basic Reporting of In-Kind Donations: Example

On October 1, a state party committee receives a \$5,000 in-kind donation of flowers from a corporation for a federal/nonfederal fundraiser ("Chairman's Gala"). The estimated allocation ratio for the fundraiser is 50 percent federal and 50 percent nonfederal. That same day, the federal account transfers its share of the in-kind donation (\$2,500) to the nonfederal account.

Required Forms

- Schedule H3—Transfers from Nonfederal Account
- Schedule H4—Payments for Allocable Expenses

Schedule H3—Receipt of In-Kind Donation

The committee reports the receipt of the in-kind donation as a transfer from the nonfederal account for the "Chairman's Gala" fundraiser. The date used here is the date the committee received the flowers.

RECEIPT OF IN-KIND DONATION (H3)

NAME OF ACCOUNT		DATE OF RECEIPT		TOTAL
Nonfederal Account		10/1/96		
		BREAKDOWN OF TRANSFER RECEIVED		
		ADMINISTRATIVE SHARE AMOUNT	DIRECT FUND-RAISING AMOUNT	EXCESS ACTIVITIES/EXCESS CANDIDATE SUPPORT
a Total Administrative/Non-Fed Share				
b Grand Fundraising for Events-Received for Cash				
1 Chairman's Gala			\$5,000.00	
2				
3				
4				

The Schedule H3 shows the nonfederal account's receipt of the \$5,000 in-kind donation of flowers on October 1.

"Disbursement" of In-Kind Donation (H4)

Like *in-kind contributions*, in-kind donations must be reported as both receipts and disbursements so as not to inflate the cash-on-hand balance. (The disbursement side reflects the use or "expenditure" of the resources.) Schedule H4 is used for the disbursement entry, which shows the \$5,000 in-kind donation as a 100 percent nonfederal disbursement. The donor's name and address is disclosed in the box generally used for payees.

Transfer from Federal Account (H4)

The second entry on Schedule H4 shows the contemporaneous transfer of \$2,500 (the federal share of the donation) from the federal account to the nonfederal account. The explanation of the transfer is described in the "Purpose" box, with a reference to the previous entry.

Alternative Reporting Method

To minimize entries and avoid duplication, a committee may use alternative methods to report transactions relating to in-kind donations.

The committee may use one entry on Schedule H3 to show the receipt of all in-kind donations made within the same reporting period for a particular fundraising program or event (or administrative activity).

The committee may also use one entry on Schedule H4 to show total federal payments (transfers) made on the same day for the federal share of in-kind donations.

Example

A committee receives two in-kind donations from prohibited sources for a mixed federal/nonfederal fundraising event, "July Fundraiser":

- Invitations donated by XYZ Printers, Inc. (value: \$3,000) received on July 1; and
- Balloons donated by ABC Balloons, Inc. (value: \$1,000) received on July 15.

The fundraising ratio for "July Fundraiser" is 50 percent federal, 50 percent nonfederal. The federal account transfers its \$2,000 share of the two donations on July 1.

DISBURSEMENT OF IN-KIND DONATION; FEDERAL TRANSFER (H4)

DISBURSEMENT SCHEDULE H4 Follows Entry		JOINT FEDERAL/NON-FEDERAL ACTIVITY SCHEDULE		PAGE 1 OF 1	
FOR LINE 21a					
NAME OF COMMITTEE State Party Committee					
A. FULL NAME, ADDRESS AND ZIP CODE Flowers by Fader, Inc. 800 Main Highway City, State ZIP	PURPOSE/ENTRY Flowers for Chairman's Gift	DATE 10/1/98	TOTAL AMOUNT \$5,000.00 In-kind	FEDERAL SHARE 0	NON-FEDERAL SHARE \$5,000.00
CREDIT: 21,000.00 - EXPENDITURE REPORT					
B. FULL NAME, ADDRESS AND ZIP CODE State Party Committee/ Nonfederal Account 445 Democracy Blvd. City, State ZIP	PURPOSE/ENTRY Transfer of Federal Share (see above)	DATE 10/1/98	TOTAL AMOUNT \$2,500.00	FEDERAL SHARE \$2,500.00	NON-FEDERAL SHARE 0

The first entry shows the "disbursement" of the \$5,000 in-kind donation by the nonfederal account. The second entry shows the federal account's transfer of its share of the donation (50 percent or \$2,500) to the nonfederal account.

Schedule H3—Receipt of In-Kind Donations

The committee uses one entry on Schedule H3 to show the total in-kind donations for "July Fundraiser" received during the reporting period. The "date of receipt" shows the period during which the committee received the contributions. The "July Fundraiser" entry cross references the Schedule H4 entries showing the "disbursement" of the donations and the identity of the contributors.

RECEIPT OF IN-KIND DONATIONS (H3)

NAME OF ACCOUNT Nonfederal Account		DATE OF RECEIPT 7/1-7/15/98	\$ 4,000.00
		EXPLANATION OF TRANSFER RECEIVED	
		ADMINISTRATIVE EXPENSE AMOUNT	NET AMOUNT
1	Total Administrative Expenses		
2	Total Fundraising (Net Event Receipts for Each)		
a	July Fundraiser		
b	See H4, P. 1, Entries A and B		
c			
d			

The \$4,000 in-kind transfer represents a \$3,000 donation received on July 1 and a \$1,000 donation received on July 15. The entry notes the Schedule H4 entries where information on the donations is available.

Schedule H4—"Disbursement" of Donations; Federal Transfer
Schedule H4 shows the "disbursement" of the two in-kind donations by the nonfederal account, each entry identifying the donor and the dates the donations were received.

The third entry shows the federal account's payment for its 50 percent share of the two donations and the date of the transfer to the nonfederal account. The entry refers to the previous two entries to show the transfer relates to those transactions.

"Escrow" Transfer

Advance transfers from the federal account to the nonfederal account to pay the federal share of anticipated in-kind donations are reported on Schedule H3. If known, the particular activity (fundraising program/event or administrative) to which the transfer applies should be noted. If the corresponding in-kind donations are received in a later reporting period, it is understood that the Schedule H3 entry will not be able to list the related Schedule H4 donor entries (showing the nonfederal "disbursement" of the donations).

DISBURSEMENT OF IN-KIND DONATIONS; FEDERAL TRANSFER (H4)

DISBURSEMENT SCHEDULE H4 (Form H4-1)		JOINT FEDERAL/NON-FEDERAL ACTIVITY SCHEDULE		PAGE 1 OF 1 FOR LINE 21a	
NAME OF DONOR/STATE State Party Committee					
A. FULL NAME, MAILING ADDRESS & ZIP CODE XYZ Printing Incorporated 9180 Pine Street City, State ZIP	DISBURSEMENT Invitations for July Fundraising	DATE 7/1/96	TOTAL AMOUNT \$3,000.00 in-kind	FEDERAL SHARE 0	NON-FEDERAL SHARE \$3,000.00
CATEGORIES: <input type="checkbox"/> ADMINISTRATIVE/OTHER <input checked="" type="checkbox"/> FUNDRAISING <input type="checkbox"/> ESCROW EVENT YEAR-TO-DATE: 18,000.00 <input type="checkbox"/> SPECIAL GENERAL SUPPORT					
A. FULL NAME, MAILING ADDRESS & ZIP CODE Ballroom Inc. 887 Oak Street City, State ZIP	DISBURSEMENT Ballrooms for July Fundraising	DATE 7/18/96	TOTAL AMOUNT \$1,000.00 in-kind	FEDERAL SHARE 0	NON-FEDERAL SHARE \$1,000.00
CATEGORIES: <input type="checkbox"/> ADMINISTRATIVE/OTHER <input checked="" type="checkbox"/> FUNDRAISING <input type="checkbox"/> ESCROW EVENT YEAR-TO-DATE: 18,000.00 <input type="checkbox"/> SPECIAL GENERAL SUPPORT					
D. FULL NAME, MAILING ADDRESS & ZIP CODE State Party Committee/ Nonfederal Account 445 Democracy Blvd. City, State ZIP	DISBURSEMENT Transfer of Federal share (see A and B above)	DATE 7/1/96	TOTAL AMOUNT \$3,000.00	FEDERAL SHARE \$2,000.00	NON-FEDERAL SHARE 0
CATEGORIES: <input type="checkbox"/> ADMINISTRATIVE/OTHER <input type="checkbox"/> FUNDRAISING <input type="checkbox"/> ESCROW EVENT YEAR-TO-DATE: <input type="checkbox"/> SPECIAL GENERAL SUPPORT					

The first two entries on this schedule provide information on the in-kind donations received and "disbursed" by the nonfederal account. The third entry shows that the federal account's 50 percent share of the donations was transferred to the nonfederal account on July 1. The entry cross references the related entries.

